

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DAVEON KYREE HAYES,

Case No. 2:23-cv-00463-RFB-MDC

Petitioner,

ORDER

v.

WILLIAM GITTER, *et al.*,

Respondents.

On March 29, 2023, Petitioner Daveon Kyree Hayes filed a Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254. ECF No. 1 (“Petition”). On May 31, 2023, this Court issued an order instructing Mr. Hayes to show cause before or on July 31, 2023, demonstrating why this action should not be dismissed as untimely. ECF No. 5. Mr. Hayes was warned that if he did “not timely respond to th[e] order [to show cause], the Petition w[ould] be dismissed with prejudice without further advance notice.” *Id.* On July 19, 2023, Mr. Hayes moved for copies of the filings in this case, explaining that his legal documents were lost when he was recently transferred to High Desert State Prison. ECF No. 6. This Court granted the motion, instructing the Clerk of Court to change Mr. Hayes’ address and send him a copy of all the documents filed in this case, and extended Mr. Hayes’ deadline for responding to the order to show cause by an additional 30 days. ECF No. 7. As such, Mr. Hayes’ new deadline to respond to the order to show cause was August 19, 2023. To date, Mr. Hayes has not filed a response to the order to show cause, requested an extension of time, or taken any other action to prosecute this case.

IT IS THEREFORE ORDERED that this action is dismissed without prejudice based on Petitioner’s failure to comply with the Court’s Order (ECF No. 5).

1 **IT IS FURTHER ORDERED** that Petitioner is denied a Certificate of Appealability, as
2 jurists of reason would not find dismissal of the petition for the reasons stated herein to be
3 debatable or wrong.

4 **IT IS FURTHER ORDERED** that the Clerk of Court (1) add Nevada Attorney General
5 Aaron D. Ford as counsel for Respondents,¹ (2) informally serve the Nevada Attorney General
6 with the Petition (ECF No. 1), this order, and all other filings in this matter by sending notices of
7 electronic filing to the Nevada Attorney General's office, (3) enter final judgment accordingly,
8 dismissing this action without prejudice, and (4) close this case.

9 **IT IS FURTHER ORDERED** that Petitioner has leave from the Court to file a motion for
10 reconsideration to reopen this case based upon the assertion of legitimate or equitable reasons for
11 failing to comply with the Court's order.

12 **DATED:** April 25, 2024

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RICHARD F. BOULWARE, II
UNITED STATES DISTRICT COURT

¹ No response is required from Respondents other than to respond to any orders of a reviewing court.